

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

MICHAEL A. CARDOZO
Corporation Counsel

BRADFORD C. PATRICK
Phone: (212) 788.1575
Fax: (212) 788.9776
E-mail: bpatrick@law.nyc.gov

BY HAND

Honorable Michael H. Dolinger
United States Magistrate Judge
Southern District of New York
500 Pearl St.
New York, NY 10007

Re: Montero v. Williams, et al., 08 CV 2819 (LTS)(MHD)

June 23, 2008
ENDORSED ORDER

*This application received
July 23, 2008, is granted non
pro tunc. Defendants are to
respond to the complaint by no
later than Aug. 22, 2008*

*MA/USM
7/30/08*

Dear Magistrate Judge Dolinger:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney for defendant New York City Department of Correction ("DOC") in the above-referenced matter.¹ I am writing to respectfully request a sixty-day enlargement of time, from June 23, 2008 until August 22, 2008, within which defendants DOC, Captain Williams and Correction Officer Thomson may answer or otherwise respond to the complaint.² I write directly to the Court because plaintiff is currently incarcerated and proceeding pro se in this matter. No previous request for an extension has been made on behalf of defendants.

The complaint alleges, inter alia, that plaintiff was subjected to excessive force while incarcerated on Rikers Island. Before this office can adequately respond to the complaint,

¹ Defendants respectfully submit that DOC is not a suable entity.

² Although this office does not currently represent Captain Williams or Correction Officer Thompson, we respectfully make this request on their behalves in order that their defenses are not jeopardized while representational issues are being resolved.

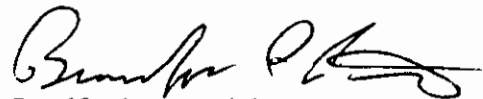
we will need to conduct an investigation into the facts of the case. The enlargement of time will afford us the opportunity to investigate the matter.

Moreover, the enlargement will allow us to ascertain whether Captain Williams and Correction Officer Thomson have been properly served. If proper service has been effectuated then, pursuant to Section 50-k of the New York General Municipal Law, this office must determine, based on a review of the case, whether we may represent the individual defendants. Captain Williams and Correction Officer Thompson must then decide whether they wish to be represented by this office. If so, we must obtain their written authorization. Only after this procedure has been followed can we determine how to proceed in this case.

In view of the foregoing, it is respectfully requested that the Court grant the within request extending defendants DOC, Captain Williams and Correction Officer Thompson's time to answer or otherwise respond to the complaint until August 22, 2008.

Thank you for your consideration in this regard.

Respectfully submitted,



Bradford C. Patrick
Assistant Corporation Counsel
Special Federal Litigation Division

CC: BY MAIL
Samuel Montero, #895-06-01117
Plaintiff Pro Se
George R. Vierno Center
18-18 Hazen St.
E. Elmhurst, NY 11370